APPENDIX

1. The *Annexation Agreement* between the United States, the Republic of Texas, the People of Texas and the State of Texas, consists of (1) a joint resolution of Congress of March 1, 1845 (5 Stat. at L. 797), (2) a joint resolution of the Congress of the Republic of Texas of June 23, 1845 (2 Gammel's Laws of Texas, 1225-1227; Paschal's Dig., Laws of Texas, Vol. 1, p. 45; Vol. 1, Sayles' Early Laws of Texas, Art. 1531), (3) an ordinance by the deputies of the People of the Republic of Texas in convention assembled on July 4, 1845 (1 Gammel's Laws of Texas, 1228-1230; Paschal's Dig. Laws of Texas, Vol. 1, p. 45), (4) a joint resolution of Congress of December 29, 1845 (9 Stat. at L. 108; Paschal's Dig. Laws of Texas, Vol. 1, p. 46) and (5) a joint resolution of the Texas Legislature of April 26, 1846. (2 Gammel's Laws of Texas, 1461; Paschal's Dig. Laws of Texas, Art. 441. These several laws are copied in the order above listed on pages 86 to 94.

2. Pertinent Portions of the Texas Act of February 10, 1852, pages 94-95.

3. Article VIII of the Treaty of Guadalupe-Hidalgo, p. 95.

4. Section 4, Article 13 of the Texas Constitution, p. 96.

5. Article 88, Vol. 1, Sayles' Early Laws of Texas, p. 97.

Joint Resolution for Annexing Texas to the United States

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress doth consent that the territory properly included within, and rightfully belonging to the Republic of Texas, may be erected into a new State, to be called the State of Texas, with a republican form of government, to be adopted by the people of said republic, by deputies in convention assembled, with the consent of the existing government, in order that the same may be admitted as one of the States of this Union.

2. And be it further resolved, That the foregoing consent of Congress is given upon the following conditions, and with the following guarantees, towit: First, said State to be formed, subject to the adjustment by this government of all questions of boundary that may arise with other governments; and the constitution thereof, with the proper evidence of its adoption by the people of said Republic of Texas, shall be transmitted to the President of the United States, to be laid before Congress for its final action, on or before the first day of January, one thousand eight hundred and forty-six. Second. Said State, when admitted into the Union, after ceding to the United States, all public edifices, fortifications, barracks, ports and harbors, navy and navy-yards, docks, magazines, arms, armaments, and all other property and means pertaining to the public defense belonging to said Republic of Texas, shall retain all the public funds, debts, taxes and dues of every kind, which may belong to or be due and owing said republic; and shall also retain all the vacant and unappropriated lands lying within its limits, to be applied to the payment of the debts and liabilities of said Republic of Texas, and the residue of said lands, after discharging said debts and liabilities to be disposed of as said State may direct; but in no event are said debts and liabilities to become a charge upon the Government of the United States. Third. New States, of convenient size, not exceeding four in number, in addition to said State of Texas, and having sufficient population, may hereafter, by the consent of said State, be formed out of the territory thereof, which shall be entitled to admission under the provisions of the federal constitution. And such States as may be formed out of that portion of said territory lying south of thirty-six degrees thirty minutes north latitude, commonly known as the Missouri compromise line, shall be admitted into the Union with or without slavery, as the people of each State asking admission may desire. And in such State or States as shall be formed out of said territory north of said Missouri compromise line, slavery, or involuntary servitude (except for crime) shall be prohibited.

3. And be it further resolved, that if the President of the United States shall in his judgment and discretion deem it most advisable, instead of proceeding to submit the foregoing resolution to the Republic of Texas, as an overture on the part of the United States for admission, to negotiate with that Republic; then,

Be it resolved, That a State, to be formed out of the present Republic of Texas, with suitable extent and boundaries, and with two representatives in Congress, until the next apportionment of representation, shall be admitted in to this Union, by virtue of this act, on an equal footing with the existing states, as soon as the terms and conditions of such admission and the cession of the remaining Texian territory to the United States shall be agreed upon by the Government of Texas and the United States; and that the sum of one hundred thousand dollars be, and the same is hereby, appropriated to defray the expenses of missions and negotiations, to agree upon the terms of said admission and cession, either by treaty to be submitted to the Senate, or by articles to be submitted to the two houses of Congress, as the President may direct. Approved March 1, 1845.

5 Stat. at L. 797, 798.

JOINT RESOLUTION

GIVING THE CONSENT OF THE EXISTING GOVERNMENT TO THE ANNEXATION OF TEXAS TO THE UNITED STATES

Whereas, the Government of the United States hath proposed the following terms, guarantees, and conditions, on which the people and territory of the Republic of Texas may be erected into a new State, to be called the State of Texas, and admitted as one of the States of the American Union, towit:

> "Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress doth consent that the terri-

tory properly included within, and rightfully belonging to the Republic of Texas, may be erected into a new State, to be called the State of Texas, with a republican form of Government, to be adopted by the people of said Republic, by deputies in Convention assembled, with the consent of the existing Government, in order that the same may be admitted as one of the States of this Union.

"2. And be it further resolved, That the foregoing consent of Congress is given upon the following conditions, and with the following guarantees, towit:

"First. Said State to be formed, subject to the adjustment by this Government of all questions of boundary that may arise with other governments; and the Constitution thereof, with the proper evidence of its adoption, by the people of said Republic of Texas, shall be transmitted to the President of the United States, to be laid before Congress for its final action, on or before the first day of January, one thousand eight hundred and forty-six.

"Second. Said State, when admitted into the Union, after ceding to the United States, all public edifices, fortifications, barracks, ports and harbors, navy and navy-yards, docks, magazines, arms, armaments, and all other property and means pertaining to the public defense, belonging to the said Republic of Texas, shall retain all the public funds, debts, taxes and dues of every kind, which may belong to or be due and owing said Republic; and shall also retain all the vacant and unappropriated lands lying within its limits, to be applied to the payment of the debts and liabilities of said Republic of Texas, and the residue of said lands, after discharging said debts and liabilities, to be disposed of as said State may direct; but in no event are said debts and liabilities to become a charge upon the Government of the United States.

"Third. New States, of convenient size, not exceeding four in number, in addition to said State of Texas, and

having sufficient population, may hereafter, by the consent of said State, be formed out of the territory thereof, which shall be entitled to admission under the provisions of the Federal Constitution. And such states as may be formed out of that portion of said territory lying south of thirty-six degrees thirty minutes north latitude, commonly known as the Missouri compromise line, shall be admitted into the Union, with or without slavery, as the people of each State asking admission may desire. And in such State or States as shall be formed out of said territory north of said Missouri compromise line, slavery, or involuntary servitude (except for crime) shall be prohibited."

And whereas, by said terms, the consent of the existing government of Texas is required—Therefore,

Be it resolved by the Senate and House of Representatives of the Republic of Texas in Congress assembled, That the government of Texas doth consent, that the People and territory of the Republic of Texas, may be erected into a new State, to be called the State of Texas, with a republican form of Government, to be adopted by the People of said Republic, by Deputies in Convention assembled, in order that the same may be admitted as one of the States of the American Union; and said consent is given on the terms, guarantees, and conditions set forth in the Preamble of this Joint Resolution.

Sec. 2. Be it further resolved, That the proclamation of the President of the Republic of Texas, bearing date May fifth, eighteen hundred and forty-five, and the election of Deputies to sit in Convention at Austin, on the fourth day of July next, for the adoption of a Constitution for the State of Texas, had in accordance therewith, hereby receives the consent of the existing Government of Texas.

Sec. 3. Be it further resolved, That the President of Texas is hereby requested immediately to furnish the Government of the United States, through their accredited Minister near this Government, with a copy of this Joint Resolution; also to furnish the Convention to assemble at

Austin, on the fourth of July next, a copy of the same—and the same shall take effect from and after its passage.

JOHN M. LEWIS,
Speaker of the House of Representatives.
K. L. ANDERSON,
President of the Senate.

Approved, June 23, 1845.

ANSON JONES.

2 Gammel's Laws of Texas, 1225-1227.

IN CONVENTION OF THE PEOPLE OF THE REPUBLIC OF TEXAS JULY 4, 1845

AN ORDINANCE

Whereas the Congress of the United States of America has passed resolutions providing for the annexation of Texas to that Union, which resolutions were approved by the President of the United States on the first day of March one thousand eight hundred and forty-five; and whereas the President of the United States has submitted to Texas the first and second sections of the said resolution, as the basis upon which Texas may be admitted as one of the States of the said Union; and whereas the existing government of the Republic of Texas has assented to the proposals thus made, the terms and conditions of which are as follows,

JOINT RESOLUTION FOR ANNEXING TEXAS TO THE UNITED STATES

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress doth consent, that the territory, properly included within and rightfully belonging to the Republic of Texas, may be erected into a new State, to be called the State of Texas, with a republican form of government, to be adopted by the people of said Republic, by deputies in convention assembled, with the consent of the existing government, in order that the same may be admitted as one of the States of this Union.

2. And be it further resolved, that the foregoing consent of Congress is given upon the following conditions, and with the following guarantees, towit: First. Said State to be formed, subject to the adjustment by this government of all questions of boundary that may arise with other governments; and the constitution thereof, with the proper evidence of its adoption by the people of said republic of Texas, shall be transmitted to the president of the United States, to be laid before Congress for its final action, on or before the first day of January, one thousand eight hundred and forty-six. Second. Said State, when admitted into the Union, after ceding to the United States all public edifices, fortifications, barracks, ports and harbors, navy and navy-yards, docks, magazines, arms, armaments, and all other property and means pertaining to the public defense belonging to the said Republic of Texas, shall retain all the public funds, debts, taxes, and dues of every kind, which may belong to or be due and owing said Republic; and shall also retain all the vacant and unappropriated lands lying within its limits, to be applied to the payment of the debts and liabilities of said Republic of Texas, and the residue of said lands, after discharging said debts and liabilities, to be disposed of as said state may direct; but in no event are said debts and liabilities to become a charge upon the government of the United States. Third. New states, of convenient size, not exceeding four in number, in addition to said state of Texas and having sufficient population, may hereafter, by the consent of said state, be formed out of the territory, thereof, which shall be entitled to admission under the provisions of the federal constitution. And such states as may be formed out of that portion of said territory lying south of thirty-six degrees thirty minutes north latitude, commonly known as the Missouri compromise line, shall be admitted into the Union, with or without slavery, as the people of each state asking admission may desire. And in such state or states as shall be formed out of said territory north of said Missouri compromise lines, slavery, or involuntary servitude (except for crime) shall be prohibited.

Now, in order to manifest the assent of the people of this republic, as required in the above-recited portions of the said resolutions, We, the deputies of the people of Texas in convention assembled, in their name and by their authority, do ordain and declare, that we assent to, and accept the proposals, conditions, and guaranties contained in the first and second sections of the resolutions of the Congress of the United States aforesaid.

Done at the City of Austin, Republic of Texas, July 4th, 1845.

Tho. J. Rusk, President.

Paschal's Anno. Digest, Laws of Texas, p. 44, 45. Vol. 2, Gammel's Laws of Texas, p. 1228-1230.

JOINT RESOLUTION OF THE CONGRESS OF THE UNITED STATES ADMITTING TEXAS INTO THE UNION

Whereas, the Congress of the United States, by a joint resolution approved March the first, eighteen hundred and forty-five, did consent that the territory properly included within, and rightfully belonging to, the Republic of Texas, might be erected into a new state, to be called the State of Texas, with a republican form of government, to be adopted by the people of said republic, by deputies in convention assembled, with the consent of the existing government, in order that the same might be admitted as one of the states of the Union, which consent of congress was given upon certain conditions specified in the first and second sections of said joint resolution; and whereas, the people of the said republic of Texas, by deputies in convention assembled, with the consent of the existing government, did adopt a constitution, and erect a new state with a republican form of government, and in the name of the people of Texas, and by their authority, did ordain and declare that they assented to, and accepted the proposals, conditions and guarantees contained in said first and second sections of said resolution; and whereas, the said constitution, with the proper evidence of its adoption by the people of the republic of Texas, has been transmitted to the president

of the United States and laid before congress, in conformity to the provisions of said joint resolution; therefore,

Resolved, by the senate and house of representatives of the United States of America, in Congress assembled, That the state of Texas shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original states in all respects whatever.

Section 2. And be it further resolved, That until the representatives in congress shall be apportioned according to an actual enumeration of the inhabitants of the United States, the State of Texas shall be entitled to choose two representatives. Approved December 29, 1845. Paschal's Digest, Laws of Texas, Vol. 1, p. 46. 9 Stat. at L. 108.

JOINT RESOLUTION OF APRIL 26, 1846, DECLARING THE EXCLUSIVE RIGHT OF THE STATE OF TEXAS TO THE JURISDICTION OVER THE SOIL INCLUDED WITHIN THE LIMITS THEREOF

Art. 441. (1634)(1) That the exclusive right to the jurisdiction over the soil included in the limits of the late republic of Texas, was acquired by the valor of the people thereof, and was by them vested in the government of the said republic; that such exclusive right is now vested in and belongs to the state, excepting such jurisdiction as is vested in the United States, by the constitution of the United States, and by the joint resolution of annexation, subject to such regulations and control as the government thereof may deem expedient to adopt; that we recognize no title in the Indian tribes, resident within the limits of the state, to any portion of the soil thereof; and that we recognize no right in the government of the United States to make any treaty of limits with the said Indian tribes, without the consent of the government of this state. Paschal's Anno. Digest, Laws of Texas, Vol. 1, p. 192, 193.

AN ACT TO RELINQUISH THE RIGHT OF THE STATE TO CERTAIN LANDS THEREIN NAMED, APPROVED FEBRUARY 10, 1852, THE PERTINENT PORTIONS OF WHICH READ AS FOLLOWS:

"Section 1. Be it enacted by the Legislature of the State of Texas, That the State of Texas hereby relinquishes all

her right and interest in the following described lands to the original grantees thereof, their heirs and legal assigns, towit:

County of Cameron

"(12) Nicolas Balli and Juan Jose Balli, eleven and a half leagues called 'Padre Island';

"Sec. 2. That it shall be the duty of those claiming any of the lands named in this act, to have the same surveyed by the District or County Surveyor of the County in which the same may be situated, and upon the return of the field notes thereof, to the General Land Office, the Commissioner is hereby authorized and required to have the same plotted on the maps of his office, and issue patents for the same in accordance with existing laws; provided, that no patent shall issue for a less amount than the original grant. That the owners of said lands shall be required to pay the taxes due on the same, from the date of the organization of the respective counties herein mentioned; which taxes shall be paid, and legal vouchers for the same exhibited to the Commissioner of the General Land Office, before the patent to the same shall issue."

"Sec. 5. That the confirmation herein extended to the lands mentioned in this act, shall in no way be construed to interfere with any rights which may have accrued to other parties before the passage of this act, but the same shall remain without prejudice; provided, that nothing in this act shall be so construed as to relinquish the rights of the State to any of the Islands or Salt Lakes situated in the territory embraced in this Act."

3 Gammel's Laws, 941, 946, and 949.

Treaty of Guadalupe-Hidalgo

Article VIII—"Mexicans now established in territories previously belonging to Mexico, and which remain for the future within the limits of the United States, as defined by the present treaty, shall be free to continue where they now reside, or to remove at any time to the Mexican republic, retaining the property which they possess in the said territories, or disposing thereof, and removing the proceeds

wherever they please, without their being subjected, on this account to any contribution, tax, or charge whatever.

"Those who shall prefer to remain in the said territories, may either retain the title and rights of Mexican citizens, or acquire those of citizens of the United States. But they shall be under the obligation to make their election within one year from the date of the exchange of ratifications of this treaty; and those who shall remain in the said territories after the expiration of that year, without having declared their intention to retain the character of Mexicans, shall be considered to have elected to become citizens of the United States.

"In said territories, property of every kind, now belonging to Mexicans not established there, shall be inviolably respected. The present owners, the heirs of these, and all Mexicans who may hereafter acquire said property by contract, shall enjoy with respect to it guaranties equally ample as if the same belonged to citizens of the United States."

9 Stat. at L. 929, 930.

SECTION 4, ARTICLE 13 OF THE TEXAS CONSTITUTION OF 1876

No claim of title or right to land, which issued prior to the thirteenth day of November, 1835, which has not been duly recorded in the county where the land was situated at the time of such record, or which has not been duly archived in the General Land Office, shall ever hereafter be deposited in the General Land Office, or recorded in this State, or delineated on the maps, or used as evidence in any of the courts of this State, and the same are stale claims; but this shall not affect such rights or presumptions as arise from actual possession. By the words "duly recorded" as used in Sections two and four of this Article, it is meant that such claim of title or right to land shall have been recorded in the proper office, and that mere errors in the certificates of registration; or informality, not affecting the fairness and good faith of the holder thereof, with which the record was made, shall not be held to vitiate such record.

2 Vernon's Annotated Texas Statutes, 556.

"ARTICLE 88. TERRITORY OF TEXAS FORMERLY INCLUDED IN THE STATE OF TAMAULIPAS

"That portion of Texas situated between the Rio Grande and Nueces Rivers, south of a line drawn from the northern boundary of Webb County to the mouth of Moros Creek, on the Nueces river, was originally a part of the State of Tamaulipas, in Mexico, whose capital was Victoria, some distance west of the Rio Grande. That section of country was but sparsely settled, and was used principally for stock ranches, that had long been subject to frequent depredations from savage Indians. On the 19th of December, 1836, an act of the congress of Texas was passed, defining the boundaries of Texas, in which that territory was included. Notwithstanding that, however, the State of Texas exercised no permanent jurisdiction over it, except along and near the Nueces river, including Corpus Christi, on the Gulf; and the State of Tamaulipas exercised jurisdiction on and near the Rio Grande, on the eastern side of it, until after the annexation of Texas to the United States (on the 29th of December, 1845) shortly after which armed occupation of the disputed territory was taken by the United States, on behalf of Texas, since which time Texas has exercised jurisdiction over it.

"By the 'Articles of Annexation' consent was given by the United States, 'that the territory properly included within and rightfully belonging to the Republic of Texas may be erected into a new state, to be called the State of Texas' upon certain conditions and guarantees, one of which was that the state to be formed should be 'subject to the adjustment by the government on all questions of boundary that may arise with other governments.' The assent of Texas to these terms was formally given in the convention, by an ordinance, on the 4th day of July, 1845. On the 29th day of April, 1846, the Legislature of Texas adopted a joint resolution, declaring 'that the exclusive right to the jurisdiction over the soil included in the limits of the late Republic of Texas was acquired by the valor of the people thereof, and was by them vested in the government of the republic; that such exclusive right is now vested

in and belongs to the state, excepting such jurisdiction as is vested in the United States by the constitution of the United States and by the joint resolution of annexation, subject to such regulations and control as the government thereof may deem expedient to adopt.' On the 2d of February, 1848, the treaty of peace, of Guadalupe Hidalgo, between the United States and Mexico, was concluded, by which the Rio Grande was established as the line between the United States and Mexico, and thereby settling the boundary of Texas, in reference to this part of the country, as between Texas, in the United States, and Tamaulipas, in Mexico. As between Texas and the United States, the right of Texas to the jurisdiction over the territory east of the Rio Grande was definitely settled by the act of Congress (called one of the compromise acts), on the 9th day of September, 1850, and acceded to by Texas on the 25th of November, 1850. This had reference, however, particularly to the cession, by Texas to the United States, of that portion of New Mexico east of the Rio Grande. By the treaty of Guadalupe Hidalgo it was stipulated that the civil rights of Mexicans, within the territory ceded to the United States, as they then existed under the laws of Mexico, should be protected by the United States.

"The inhabitants, and others owning lands by titles, perfect and imperfect, within the territory east of the lower part of the Rio Grande, not having had the same opportunities as persons in other parts of Texas, to have their titles established and recognized by the authorities of Texas, a law was passed for that purpose as early as 1850, and another in 1854, under which commissioners were appointed to investigate and report upon their titles, many of which were confirmed as valid by an act of the Legislature of 1852. For the same object another law was passed in 1860, authorizing suits to be brought against the state in the counties where situated.

"The object of all these laws, as therein expressed, was to ascertain what lands the state should recognize as justly belonging to individuals, whether the titles from the former government were perfect or imperfect, and to have them surveyed, mapped and patented, but not to interfere with

any superior rights that might have been acquired by third persons previous to the passage of said laws. By the law of 1860, authorizing a suit to establish such right or title, it was provided that 'all lands, the claims to which shall be finally rejected in the manner herein provided, shall be deemed, held and considered as part of the public domain of the state.'

"For the same purpose, and in similar terms, another act of the legislature was passed on the 15th of August, 1870, providing that 'any person who may be the original grantee, heir or assignee of any grant of land, emanating from the Spanish or Mexican governments, and having its origin previous to the 19th day of December, A. D. 1836, and situated between the Nueces and Rio Grande rivers, and below a line drawn from the northern line of Webb county to the mouth of the Moros creek, emptying into the Nueces river, may file a petition to the district court of the county of Travis, or where the capitol of the state may be, 'which shall contain a full description of the land claimed, setting forth particularly its situation, boundaries and extent, and shall accompany such petition with the titles, or evidences of titles, or right under which the same is held or claimed, and the said district court shall investigate the same, in accordance with the laws of nations, the laws, usages and customs of the government from which the claim is derived, and the principles of equity, so far as the same are applicable, and shall give judgment for the confirmation of the same when the title is perfect; or, when imperfect, when the same would have matured into a perfect title, under the laws, usages and customs of the government under which it originated, had its sovereignty over the same not passed to and been vested in the Republic of Texas, provided said title or right was originally founded in good faith.' (The State v. Sais, 47 T. p. 309; see Constitution, Art. 14, paragraph 8; Sayles' Civil Statutes, Vol. 4 p. 574)" John Sayles and Henry Sayles, Sayles' Early Laws of Texas, the Gilbert Book Company, St. Louis, 1891.